

Serial No. 09/818,127

REMARKS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. Claims 1, 2, 5, and 6 have been rejected as anticipated by Steiner, GB 2,100,517A. Claim 3 has been rejected as unpatentable over Steiner in view of DeVolpi, US 5,912,612. Claims 4 and 7 have been rejected as unpatentable over Steiner in view of Sadamori et al., US 5,924,555. The Specification and claim 6 have been amended to correct minor informalities.

Claim 1 recites the first membrane (30) initially acting alone and then acting simultaneously with the second membrane (40). The flexible sheet (32) of Steiner acts only simultaneously with conical portion (15) (Fig. 2). Whenever the flexible sheet (32) is deflected, the conical portion (15) is necessarily also deflected due to both elements (15 and 32) being fixed to the pushbutton (18). It is respectfully submitted that claim 1 is in condition for allowance.

Claim 3 recites a third membrane (60) enclosing the first and second membranes (30, 40). Steiner does not disclose this feature (Office Action, paragraph 5). DeVolpi discloses a cover (10) around a membrane switch (30) and a rigid backer surface (32) (Fig. 9). The Office Action states that it would have been obvious to use the cover (10) of DeVolpi with the switch of Steiner "for the purpose of flexibility to return the switch to the original position when the external force is removed" (Office Action, paragraph 5). The conical portion (15) of Steiner acts to return the pushbutton (18) to its original position (Steiner, page 1, lines 103-107). Thus,

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the stated motivation is inappropriate for the modification suggested by the Office Action. Claim 3 is in condition for allowance.

Claim 4 recites an end (34) of the first membrane (30) sliding along a planar surface (50) as the depressible member (20) moves from the unactuated condition to the actuated condition. Steiner does not disclose this feature (Office Action, paragraph 6). Sadamori et al. discloses a movable contact (1). While applicant's representative recognizes that the test for obviousness is not physical combinability, it is respectfully submitted that only hindsight reconstruction of the claimed invention could lead one of ordinary skill in the art to combine the movable contact (1) of Sadamori et al. with the switch of Steiner.

Further, if the proposed modification of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. MPEP §2143.01. The switch of Steiner has no sliding parts. Thus, the addition of a sliding feature would change the principle of operation of the switch of Steiner. Claim 4 is in condition for allowance.

Claim 1, as well as claims 2-7 which depend from claim 1, are in condition for allowance.

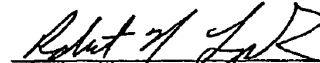
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

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In view of the foregoing, allowance of the
above-identified application is respectfully requested.

Please charge any deficiency or credit any overpayment in
the fees for this amendment to our Deposit Account
No. 20-0090.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADEIN THE SPECIFICATION:

The paragraph beginning at page 8, line 12, and ending on page 9, line 2, has been amended as follows:

The apparatus 10 further includes a third membrane 60. The third membrane 60 has a portion secured to an upper surface of the depressible member 20 as shown in the drawings. The third membrane has a surface portion 24 that is engaged by the operator to apply force to depress the depressible member 20. The third membrane 60 encloses the depressible member 20 and the first and second membranes 30, 40 from environmental conditions. The membrane 60 is secured to the mounting surface 50. The third membrane 60 may be a seal pad constructed of a suitable elastomer such as rubber. The third membrane 60 provides minimal resistance to depression of the depressible member 20, and thus a minimal force acting to return the depressible member 20, to the position of Fig. 1.

IN THE CLAIMS:

Claim 6 has been amended, as follows:

6. (Amended) The apparatus as defined in claim 5 6 wherein said second membrane is at least partially metal and engages said electrical switch contact to complete a circuit.